

**STATE OF MICHIGAN  
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH  
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

**Before the Commissioner of the Office of Financial and Insurance Regulation**

**In the Matter of:**

**HEALTH PLAN OF MICHIGAN, INC.  
777 Woodward Avenue, Suite 600  
Detroit, MI 48226  
NAIC # 52563**

**Enforcement Case No. 08-6973**

**Dr. David Cotton, President**

**Respondent.**

---

**CONSENT ORDER AND STIPULATION**

**I.**

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Office of Financial and Insurance Regulation ("OFIR") and Health Plan of Michigan, Inc. represented by Sean P. Cotton, General Counsel, state the following facts are true and correct:

1. Health Plan of Michigan, Inc., ("Respondent") is licensed as a health maintenance organization in Michigan. Dr. David Cotton is the Respondent's President and CEO.
2. On November 7, 2007, Dr. Cotton signed a provider agreement with MHNet and put the agreement into use on the same date. The agreement was not submitted to OFIR for review and approval until April 25, 2008. OFIR approved the agreement on September 4, 2008, after receiving all the information from Respondent that made the filing complete for review.
3. Additionally, on January 30, 2004, Dr. Cotton signed a provider agreement with RxAmerica and put the agreement into use on the same date. The agreement was not submitted to OFIR for review and approval until May 15, 2008. OFIR approved the agreement on October 20, 2008, after receiving all the information from Respondent that made the filing complete for review.
4. MCL 500.3529, §3529 states a health maintenance organization shall submit to the commissioner for approval standard contract formats proposed for use with its affiliated providers and any substantive changes to those contracts. The contract

format or change is considered approved 30 days after filing unless approved or disapproved within the 30 days.

5. As used in §3529 "substantive changes to contract formats" means a change to a provider contract that alters the method of payment to a provider, alters the risk assumed by each party to the contract, or affects a provision required by law.
6. Therefore, the Respondent is required to submit to OFIR for approval standard contract formats proposed for use with its affiliated providers and any substantive changes to those contracts pursuant to §3529 of the Insurance Code.
7. Respondent either knew or should have known that it is required to submit to OFIR for approval standard contract formats proposed for use with its affiliated providers and any substantive changes to those contracts, and failed to do so.
8. On or about February 20, 2009, the Respondent was served with OFIR's Notice of Opportunity to Show Compliance and responded shortly thereafter.
9. On March 6, 2009, by and through its General Counsel the Respondent admitted that it violated Section 3529 of the Insurance Code when it failed to submit a provider agreement with MHNet to OFIR for approval prior to putting the agreement into use.
10. On March 6, 2009, by and through its General Counsel the Respondent also admitted that it violated Section 3529 of the Insurance Code when it failed to submit its provider agreement with RxAmerica to OFIR for approval prior to putting the agreement into use.

## II. ORDER

Based on the above findings of fact and conclusions of law and Respondent's stipulation, it is **ORDERED** that:

1. Respondent shall immediately cease and desist from violating the Michigan Insurance Code, including but not limited to Section 3529 of the Michigan Insurance Code.
2. Respondent shall pay to the State of Michigan a civil fine of \$1,000.00 (one thousand dollars and zero cents). Upon execution of this Order, OFIR will send Respondent an Invoice for the civil fine that will be due within 30 days of issuance of the Invoice.

Dated: 3/26/09


Stephen R. Hilker  
Stephen R. Hilker  
Chief Deputy Commissioner

**III.  
STIPULATION**

I have read and understand the Consent Order above. I agree that the Commissioner has jurisdiction and authority to issue this Consent Order pursuant to the Michigan Insurance Code. I waive the right to a hearing in this matter if this Consent Order is issued. I understand that the Consent Order and Stipulation will be presented to the Commissioner for approval and the Commissioner may or may not issue this Consent Order. I waive any objection to the Commissioner deciding this case following a hearing in the event the Consent Order is not approved. I admit to the Findings of Fact and Conclusions of Law set forth in the above Consent Order and agree to the entry of the Consent Order.

The Office of Financial and Insurance Regulation staff approves this stipulation and recommends that the Commissioner issue the above consent order..

Dated: 3/26/2009

  
Elizabeth V. Bolden  
OFIR Staff Attorney